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ABSTRACT

Noting that the ethics of forensics is a complicated and controversial subject, this paper outlines some of the issues that should be addressed in preparing codes of ethics. The following issues are discussed: (1) the nature of professional ethics; (2) the functions of an ethics code; (3) approaches to ethical systems in forensics; (4) standards for debate tournament contestants, specifically in the areas of evidence usage, eligibility requirements, and debate strategies; (5) standards for debate coaching that pertain to overcoaching, recruiting, treatment of debaters, and coaching restrictions and academic freedom; (6) standards for tournament judges; (7) tournament standards; and (8) the nature of a code of ethics. The paper concludes that while there is much disagreement about what should be included in a code of ethics, it is important for scholars to be tolerant of other perspectives and not to use a code to stifle legitimate dissent. (FL)

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# THE ETHICS OF FORENSICS: A PRELIMINARY INQUIRY

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# THE ETHICS OF FORENSICS: A PRELIMINARY INQUIRY

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The ethics of forensics is an extremely complex subject. To many individuals, the ethics of forensics is limited to a discussion of the ethics of evidence.(1) Other individuals use an essentially ad hoc standard for evaluating the ethics of various actions of individuals, without understanding what it means to label an action as unethical. As a result, there is a tendency to label as unethical activities that we may disapprove, even when the activity itself may not be unethical.(2)

The discussion of debate ethics is often conducted on a piecemeal basis. While there was an initial flurry of interest in the ethics of debate in the early issues of JAFA, this interest died quickly. The occasional discussion of ethics at national meetings is often delayed until the end of the business meetings, when people are interested more in finishing the meeting than in probing the assumptions of a code of ethics.

This paper will attempt to outline some of the assumptions of a code of ethics. In so doing, it will isolate some of the competing philosophies behind such a code. Many of the issues behind a code of ethics are complex; this paper should not be viewed as a final statement on an ethical system for debate. Many of the positions expressed in this paper are very tentative; the more I read about ethics in general and the more I thought about debate issues in specific, the less clear the issues became. I do believe, however, that the current ethics codes include some regulations that, though they may be desirable, should not be in a code of ethics, and many practices that should be viewed as unethical are neglected by our current codes. In addition, the structure of our ethics code should be modified to reflect the complex nature of debate ethics.

## THE NATURE OF PROFESSIONAL ETHICS

In his essay on "The Substance of Debate Ethics," David Zarefsky notes that the term "ethical" has been used to cover a great number of evils.(3) He notes, for example, that many individuals are likely to call a practice such as "spreading", "coaching" teams at tournaments, "powering" judges, etc. as being unethical. While these practices may be unwise, Zarefsky argues that it is inappropriate to call these practices "unethical", since that term should imply an action is morally wrong. He argues:

> . . . many teachers and coaches of debate tend to label as 'unethical' a range of practices which do not involve moral considerations at all. The practices may be pedagogically questionable (although arguments often can be made in their

> defense as well) but they do not involve matters of ethics. When we apply the label 'unethical' in such a broad way, the effects are not innocuous. We forestall needed argument about conflicting notions of theory, strategy, and pedagogy. We trivialize the nature of ethics, leading some to believe that there are no ethical considerations in debate. And we fail to identify what really are substantial ethical issues.(4)

Before addressing what types of behavior should be labeled as "unethical" and which we need to develop an understanding of what it means to consider an action to be unethical.

There is a distinction between a rule and an ethical rule. Any activity will contain a number of arbitrary rules that are necessary for the activity to exist. For example, we place limits on the length of a season and the time available to each speaker because some restriction is needed to have any activity. These rules, while important, are not ethical rules. If a speaker speaks overtime, we do not label that individual as being unethical (unless there are other factors involved), anymore than we label a basketball player who double-dribbles unethical. These rules, while important, are not ethical in nature. There is a wide difference between a rule that says that topicality is a voting issue and one that says that manufacturing evidence is a voting issue; the first rule outlines the "rules of the game", while the second outlines behavior that deserves to be condemned.

While intuitively, there seems to be a significant difference between these two types of rules, explaining why there is a difference or what precisely is the difference is a more difficult task. Perhaps part of the difference is that rules of the first type are conventional; we could change them without fundamentally altering the nature of the activity. Changing the time limits for debate to 6-2-3, or 12-4-6 may change some strategies, but the activity would be similar; the rules, while necessary, are arbitrary standards. Johannesen suggests other standards for evaluating the ethical nature of a rule:

> Ethical issues are potential in human behavior whenever that behavior may have significant impact on other persons, when the behavior involves conscious choice of means and ends, and when behavior can be judged by standards of right and wrong.(5)

It should be understood, however, than when we move from the issue of ethics in general to professional ethics, the nature of ethics changes. A debater/coach is playing a specific role in the activity, and that role may conflict with normal ethical guidelines. Aronson and Weckstein note that:

> Most rules of legal ethics, however, are rules of professional - not moral - conduct. They reflect a consensus of the legal profession as to how the legal system should operate and the roles that kawyers should play in that system. The rules may require an attorney to act in a manner that is inconsistent with, or irrelevant to, his or her personal moral views.(6)

For example, if I judged a round between the national champion team and a team of rank novices, my obligation to the profession would be to vote for the team that won. On the other hand, if I were a utilitarian, I might decide that the national championship team would gain little additional pleasure from winning this round, while voting for the novice team might make their whole season. In this case, however as a judge I would be compelled to place my professional ethics over my personal ethics.

Part of the reason for this weighing of professional ethics against "normal" ethics may be that professional activities take place in a specific communicative environment. Speech ethics, for example, may not always apply to a debate environment where there is an adversary environment. While many rules (especially those concerning evidence) may apply to all public speaking situations, some guidelines proposed for speakers assume that the speaker is the sole source of information for the audience; in debate there are two sides presenting arguments, and this adversary system may check some of the practices that are addressed in an ethical system for speech.

In law, for example, a specific ethical system has been developed to promote the goal of the activity. At times, that code may require actions that may not be seen as desirable, but these are justified since the value of the adversary system is great and the rules are the only way to promote those goals.(7) What is critical in all these situations is that the codes of ethics are created to promote the goals of a field.(8) Behavior is labeled as being ethical or unethical depending upon whether it advances or hinders the goals of the field. Zarefsky, for example, outlines certain assumptions about the nature of the debate activity (that it should be open to public inspection, that it is an important part of the decisionmaking process, and that debaters and judges play roles) and suggests an ethical system based upon these assumptions.(9) From this perspective, it is important that we evaluate a code of ethics based upon what we want the activity to be.

## THE FUNCTIONS OF AN ETHICS CODE

The focus of any discussion of debate/forensics ethics is the American Forensic Association Code of Ethics. While other codes of ethics exist, this code has influenced many other organizations; witness the fact that the code was adopted <u>in toto</u> by the Cross-Examination Debate Associations, while other organizations (for example, the Alabama High School Forensic League Executive Committee) have adopted modified versions of the code.

A code of ethics plays a vital role in any organization. Johannesen outlines three functions of a code of ethics:

> First, codes can educate new persons in a profession by acquainting them with guidelines based on the experience of predecessors and by sensitizing them to ethical problems generic to their field. Second, codes can narrow the problematic areas

with which a person has to struggle. The simpler or recurring problems can be resolved with greater ease; of course the complex or unusual ethical problems will still confront human deliberation and choice. Third, codes can serve as a starting point to stimulate professional and public scrutiny of major ethical quandries in a field; they could be the basis from which to launch a public debate over a specific communication practice.(10)

In forensics, there are at least four functions of a code of ethics.

First, a code of ethics established standards for conduct. These standards announce what types of behavior are expected from participants and judges. This provides some guidelines for debaters prior to their actions. It is often easy to criticize individuals for things that they do when we have both the benefit of hindsight and the time to think of all of the implications of a specific behavior. It is much more difficult for an individual, in the midst of an extremely competitive activity, to calmly determine what actions are ethical. Some unethical behavior exists, not because of maliciousness, but because of ignorance. An ethics code helps to identify those behaviors that should be avoided. It can also help stimulate thought about behavior that is marginally ethical. By clearly identifying what is and what is not ethical, codes provide guidance for individuals. Crable notes:

> Regardless of the type of standard implicit in the code, the code functions to remove a contention of unethical behavior from the realm of vaguely guided accusation and to place it in the category of clearly argued claim.(11)

> Human agents can refer to codes of behavior, norms, legal statutes, and other codes to defend questioned behavior.(12)

Second, a code of ethics provides an easy justification for avoiding unethical behavior. The existence of a code permits individuals to refer to an external authority to support their ethical decision. The code is expressed in a neutral manner:

> Ethical rules, like legal and moral rules, combine an element of approval or disapproval with an element of neutrality. . . . the approving or disapproving statements in ethical rules (or legal or moral rules) are expressed in categorical and abstract terms, refering not to specific instances but to types of instances.(13)

For example, if a team I like is caught reading manufactured evidence (perhaps researched by someone else), I may be reluctant to vote against them with zero speaker points. The existence of a code directing me to do this takes the discretion away from me. I can carry out the mandates of the code and justify my action with the rule spelled out in the code. There is no room for debate in the application of the rule, and the impersonal nature of the rule minimizes interpersonal conflict. Similarly, the code can help

judges and coaches refuse to engage in unethical practices; the code can help reinforce ethical judgements individuals might arrive at independently, but which they may not otherwise have the strength (or confidence) to uphold.

A third purpose of an ethics code is to prevent and punish unethical behavior. The preface to AFA's current code of ethics includes the following statement:

> We believe in equality and fair play in all forensics competition, and we therefore promulgate the following Code of Forensics Program and Forensics Tournament Standards for Colleges and Universities in the hopes that the guidelines outlined here will serve to govern and regulate effectively the conduct of forensics competition in the United States.(14)

This suggests that the code should do more than just outline some general principles of ethical conduct; the code should help promote these guidelines and it should help punish and deter those who engage in unethical behavior.

Finally, a code should outline the values of those in the field. William Howell notes:

> Prescribed standards evolve from the experiences of many, many people over considerable periods of time and hence tend to be uniform and stable, at least as compared to individual interpretations. Prescribed ethics in a community can be consolidated in a list of 'should' and 'should not' statements that define approved ways of living for members of that collective.
>
> These 'does' and 'don'ts' are protectors of the fabric and as such have social utility. Living together harmoniously requires acceptance of certain values and conformity to generally understood boundaries of behavior. The person who strays too far from these central guidelines is no longer a 'useful' citizen. Such an individual is punished for unethical conduct by being to some degree physically or psychologically separated from that group.(15)

From this perspective, ethical standards reflect a consensus of members of the community as to the nature of proper behavior. While I will argue later that there are limits to the extent that this goal should be followed, this goal is, top a degree, an important one for any ethical system.

## APPROACHES TO ETHICAL SYSTEMS IN FORENSICS

There is much disagreement among members of the forensics community about the types of things that should be included in a code of ethics. Before discussing specific issues, it may be wise to outline three general

approaches to ethical systems of forensics and to examine the nature of these approaches.

One approach to ethics is to define ethics narrowly. This approach would address ethical issues of forensics in a limited manner, developing guidelines only in response to specific problems. My limited understanding of the National Forensic League's position on ethics suggests that they have taken this approach, developing a very limited code of ethics to cover evidence misuse, but not addressing other ethical issues except in isolated cases. The Cross-Examination Debate Association, while endorsing the AFA's code of ethics at its last meeting, did so, not out of support for all the contents of all the parts of the code; rather the debate on the code was limited to the need to provide standards for contestants in CEDA in order to disqualify 5th year debaters; the rest of the code was merely a desirable rider. This view of ethics, while providing guidance on an ad hoc basis, does little to promote a comprehensive view of ethics.

At the other extreme is the view of ethics that suggests that all evils in debate are caused by unethical behavior. These individuals classify as unethical numerous behaviors. Consider the Kansas High School Activities Association "Code of Ethics for Speech Activities":

> 1. Students shall be in their respective rooms by 11:00 p.m.; lights out by 11:30 p.m.
>
> 2. The coach or sponsor shall be present or available at all times for supervision of students at the activity. (This includes time spent in motels and hotels.)
>
> . . . .
>
> 4. Coaches shall direct any criticism only to the tournament managers and to the KSHSAA.
>
> 5. Care should be exercised by those schools hosting tournaments that pre-tournament programs, awards and after-tourny activities for students, coaches and sponsors should contain nothing in poor taste or offensive to the visitors.
>
> 6. Students and coaches shall conduct themselves in a courteous manner while attending tournaments.(16)

While these regulations certainly make sense, to label these as ethical rules is to trivialize the term.

Other individuals classify as unethical trick definitions, the use of the spread, and similar practices.(17) Klopf and McCroskey outlines 40 behaviors that were considered unethical by at least some individuals in the debate community, including listening to other team's cases (52%), discussing with debaters cases of other teams (46%), using sarcasm (21%), presenting a counterplan in second negative (17%) talking with a partner during

cross-examination periods (33%), not writing comments on ballots (16%) and debating the debate with the judge after the debate (27%)(18)

Within this approach to debate ethics, there seems to be two schools of thought. The first school looks at debate as a game, and they attempt to promote the fairness of the activity, emphasizing the competitive nature of the contest. Rules are justified, according to this view, to the extent that they promote a fair contest. Practices that favor a certain type of program are often labeled as unethical. Practices that might make it hard for a team from one's own school to win would be penalized, from this perspective, even if the rule prevented students from other schools from maximizing their educational experience.

The second school of thought emphasizes the educational function of debate. This view suggests that practices should be evaluated according to the educational goal of the activity. Any educationally sound practice would be sanctioned, even if the practice favors a certain type of program. For example, the rule against "scouting" cases in some areas seems to attempt to minimize conflicts and equalize the competition between schools (and thus is consistent with the first school of thought), but it would decrease the educational experience available to students (and thus be inconsistent with the second school of thought).

A third approach to ethics views debate as being part of a broader type of discourse. From this perspective, debaters have the same obligation of any ethical speaker, and thus debaters should be evaluated by general ethical standards. This perspective would note that all education has ethical dimensions, and we as teachers should coach in a manner that encourages ethical behavior. In teaching our students to debate we should constantly strive for the highest standards of ethics. This environment of ethics should exist in all parts of the forensics environment. In coaching we should promote high ethical standards; in selecting cases and strategies we should promote ethical behavior.(19) Duffy suggests that we should evaluate debate according to the standards developed by Weaver; we should recognize that all use of language implies ethical choices, and we should thus promote wise choices.(20)

The rhetoric of the debate over ethics can become quite divisive as each side calls the other side unethical. As previously noted, many argue that some of the strategies utilized by what some term "NDT-style" debaters is unethical. At the same time, it could be argued that an audience-centered style of debate was unethical since it emphasizes appeals to emotions instead of appeals to reason.(21) Indeed, at least one high school team refuses on ethical grounds to attend high school tournaments judged by lay judges since it views adaptation to an audience as a compromise of its ethical standards.

My point is not to say that either of these views of debate is accurate (or inaccurate); rather, both views indicate that, if one views debate as a type of public discourse, then the choice of appeals, strategies, and arguments will take on ethical importance, and all parts of debate will have ethical implications.

## CONTESTANT STANDARDS

The debater will play an important role in any system of ethics. the first National Developmental Conference on Forensics noted:

> The primary responsibility for avoiding foolish and unethical practices in tournament activities rests with the participant. In casting arguments into forms, using evidence, identifying with values, and treating opponents' ideas, the individual must not subvert desired objectives by allowing other, less worthwhile, objectives to become temporarily dominant.(22)

In debate, as in real life, there will always be a conflict between "winning" and acting in an ethical way. It iis important that debaters understand the nature of this trade-off, and that they be encouraged to act in an ethical manner. There are at least three major areas of controversy about competitor-related behavior.

### Evidence Usage

By far the most widely discussed area of ethics concerns the ethics of evidence. Keeshan identifies ten issues associated with evidence usage in debate:

> (A) fabrication of evidence, (B) fabrication of evidence with known facts, (C) taking evidence out of context, (D) distorting the meaning of evidence, (E) trading evidence with other schools, (F) using fabricated evidence researched by another person, (G) paraphrasing evidence (H) failure to read complete source citations, (I) changing the date of evidence, and (J) challenging the validity of evidence without proof.(23)

Five of these areas will be discussed in this section.

Fabricating evidence. There is universal condemnation of the use of manufactured evidence in debate.(24) It seems reasonable to hold a team responsible for all the evidence that they read. While it may be unreasonable to expect a team to verify all the evidence that they read (especially at the high school level), this requirement can be justified since it is the only way to enforce this provision of the code; a less stringent standard would result in all debaters claiming that the manufactured evidence they read was researched by some other student. It might be desirable to require that the initials of the individuals that researched the evidence be included on all cards, and the NFL and AFA might consider printing copies of evidence from handbooks that was manufactured or taken out of context (after giving the author(s) an opportunity to locate the original.)

Challenging Evidence Fabrication. While evidence integrity is important, it is also important that individuals accused of fabricating evidence be viewed

as being innocent until proven guilty. Challenges of evidence should be made only if there is clear proof that evidence has been manufactured. Unfortunately, it is difficult to prove evidence does not exist. Some balance needs to be made between the need for integrity of evidence and the need to guard against false accusations. One possible solution would be to outline the steps that should be followed before making an accusation. Those that make a false accusation should be penalized if it both turns out to be inaccurate and if they did not follow reasonably prudent steps in attempting to locate the evidence.

We may also wish to develop procedures for exposing manufactured evidence during a tournament; existing standards would be useless if a team manufactured new evidence every round. Perhaps a procedure where each team has the option of checking out a few pieces of evidence during the break between rounds (with the judge acting as a check for which evidence was read in the round). If the evidence is found to be fabricated, the decision could be reversed. As the rule currently reads, there is nothing that can be done if the manufactured evidence is not discovered until after the round is over.

Quoting Evidence in Context. The rule that evidence must be in context is one that we all agree with in theory, but in practice there may be some disagreement. The main issue is how do we know if something is in context? The clear examples (where a debater leaves out a "not", or "only a fool would believe . . . ") are rare; many examples of evidence being taken out of context are less clear. Consider the following two examples:

> (The new law is designed to minimize poverty in rural areas.) It does, however, have numerous loopholes that render it useless.
>
> (There are three advantages of welfare programs: They decrease poverty, they stimulate the economy, and they are politically feasible.) There are two disadvantages of welfare programs: they are inflationary, and they decrease the incentive to work.

Is this evidence, as cut, out of context? It certainly would be unwise to cut the evidence in this manner, and by a strict standard, these quotes would be out of context. I would argue, however, that, while I would tell my debaters not to cut evidence in this manner, there is nothing unethical about cutting evidence in this manner. The standard for determining if evidence is in context should be, "would the author of the evidence agree with the statement, as quoted?" It is unreasonable to expect the author to support the conclusion of the case (for example, people quoted on the link of a disadvantage may not agree with the impact of the disadvantage), but the person should agree with the statement attributed to him or her.

Similar standards should apply to paraphrased quotations. While these should be avoided if at all possible, sometimes paraphrased quotes are necessary (getting information from a chart, for example). Some guidelines need to exist for paraphrasing evidence. It may be worthwhile to limit the

number of paraphrased quotations that could be used, or to specify the circumstances that justify the use of paraphrasing. More importantly, some steps need to be made to prevent "powerwording" of quotations (where "may" becomes "will", for example). The code of ethics should indicate that paraphrasing should not increase the rhetorical force given by the author of a quote.

Internal ellipses are controlled by the NFL code of ethics, but not by AFA's code. The NFL prohibits the use of internal ellipses, unless the team can produce the original. This guideline has been controversial.(25) Some have argued that this provision is unnecessary. It is also possible that the guideline may be counterproductive, since it could increase the use of paraphrases.

A more serious problem is not treated by any ethics code: the use of evidence in one context to support arguments in another context. Evidence on note cards is often read in a debate without understanding the original context of the evidence. The evidence may include conclusions that apply to one segment of the economy, but it may be applied to another segment of the economy. While the rules against taking evidence out of context may apply to this use of evidence, they are rarely applied. This misuse of evidence could be minimized if we required teams to explain the reasons behind the conclusions of their sources more fully, instead of relying on conclusionary evidence.

Trading Evidence. A few tournaments (especially district qualifiers) restrict the trading of evidence, briefs, and flows. These restrictions seem to be unwise. While there is a chance such trading can create friction, in most cases the trading is done, not against a certain team, but against any new case. If a new case is run, all teams will work on that case, regardless of the team that runs the new case. This is not a case of hostility towards individuals, but a case of discussion about a new case. This exchange of information can also foster a degree of cooperation and increased discussion about new cases. It would also discourage new cases.

Similarly, the rules that prohibit teams from listening to, or recording, debates involving other teams seems to be unwise. Debaters learn much from listening to other teams. In addition, listening to other teams permits the most rigorous test of these cases. The whole debate community benefits from an open tournament and open discussion of all debate cases.

Reading Citations. There are some tournaments that require the reading of complete citations in a round. While it is important for teams to have the complete citation for all evidence in the round, reading page numbers may not be that productive. While it is wise to include the qualifications of a source, the additional information is often of little value to the judge and merely causes the debaters to read the material faster.

There are other issues involved in the use of evidence that have implications for debate ethics. The emphasis on evidence may create pressures to discover the "perfect" card, and this may cause debaters to

engage in unethical behavior. If we place evidence in a more accurate perspective, giving evidence weight depending upon the reasoning in the evidence and/or the qualification of the individual being quoted, we may create an incentive for debaters to understand evidence instead of just reading it.(26)

Eligibility Requirements

During the past year, there has been much discussion about the standards for the eligibility of debaters. As indicated earlier, the primary motivation for CEDA endorsing the AFA ethics code was a concern about the lack of standards for determining the eligibility of debaters. While the ethics of recruiting will be discussed in the next section, the other issues involved in determining eligibility of debaters are also important to the activity.

The ceiling on the length of time that a debater can debate is wise. After a certain point, it is time for the debater to turn to other activities, and the four year (or eight semester) rule seems to be a reasonable time figure. The first few years of competition are largely devoted to learning about the nature of the activity. Exposure to several topics allows debaters to see how argument works across several fields. As with all educational experiences, at some point the debater should shift his or her attention from learning to teaching and/or applying knowledge.

Given the value of debate, the wording of the current rule is also desirable, since it permits a graduate student who has never debated to debate for a year. This rule is useful for a new graduate student that decides that debate might be educationally beneficial (as may be the case when a student suddenly finds that he or she will be coaching debate and (s)he decides participating in the activity might be useful). Indeed, the requirement that the PRC committee agree with the coaches' decision to enter such a contestant is probably unnecessary.

The limits on the number of rounds that an individual may participate in, while not included in the AFA code, is included in the NDT rules and in some high school codes. These rules need to be framed in such a manner as to ensure that students can receive an adequate exposure to the topic. The concern that they address - that students might miss too much school - is clearly a worthy one (although some codes limit the competition too much.) A better way to avoid this abuse would be to impose a minimum grade point average for competition (something done by the NCAA, but not by the NDT). In practice, time and financial limitations makes this feature of the NDT rules of little relevance to most teams. At the high school level, this type of restriction can cause significant problems. With states like Kansas and Georgia sharply restricting travel for teams, the educational benefit of the rigorous testing of ideas against a wide range of views is lost. Much of the benefit of debate comess from exposing debaters to a wide range of strategies and arguments; a single coach cannot provide this educational experience;

only regular attendance at tournaments can provide this intellectual experience.

In addition, the competitive nature of the tournament provides motivation for debaters to learn that is extremely useful. The series of tournaments promotes the development of ideas over a season. Ideas are tested early in the year, modified for future tournaments, and constantly updated. The success of this method of education is amply demonstrated by looking at the testimony of past debaters. It would be ironic if, in the interest of promoting attendance at schools, administrators reduce the educational effectiveness of one of the most effective educational activities in schools. While it may be desirable to place restrictions on travel contingent on the academic standing of debaters, a blanket restriction on travel could be detrimental to the educational process.

The rules on transfering have never been enforced. The procedures employed in the rules should not be overly complex, leaving a prospective student in limbo while the PRC committee meets. My inclination would be to permit a liberal transfer policy. It is normal for students to transfer to other institutions for academic reasons; why not allow them to transfer to another institution when they think they can have a better educational experience at the new institution? The only problem exists when the student is coerced by inappropriate means. While there are examples of where students make unwise decisions to transfer, I am not sure we can prevent such choices, nor do I think it is our job to make those choices for our debaters. What we can do is to make sure that the decisions are made for educational reasons. We should not condone the "buying" of debaters. The existing code, by placing restrictions on the giving of scholarships to transfering students, as well as restricting the coaches' contact with a student may strike an appropriate balance.

Debate Strategies

Some coaches have suggested that specific strategies utilized by debaters are unethical, including the use of unusual definitions, rapid delivery, etc.(27) Besides the question of whether these practices are unethical, as opposed to being undesirable practices, there are other issues that this approach to ethics raises. Initially, many of these strategies are vague. At what point does rapid delivery become unethical? What definitions are too extreme? Developing guidelines for this type of behavior may chill debaters from legitimate (although new) strategies. In addition, most of these strategies can be dealt with without a change in the ethics code. The solution to trick definitions is to teach our debaters how to argue topicality. The solution to shallow analysis is to teach our debaters how to defeat the analysis.(28)

STANDARDS FOR COACHING

Some of the most controversial issues in ethics concern the appropriate role of a debate coach. These issues are especially important for a new coach attempting to develop a philosophy of coaching. Three issues are especially critical: overcoaching, recruiting tactics, and the treatment of debaters.

Overcoaching

The issue of overcoaching has been around for decades.(29) The current AFA code places the responsibility of researching on the shoulders of the debaters, and prohibits coaches from researching on the debate topic except for "limited research designed to:

> (1) teach research techniques; (2) provide limited examples of high quality research; (3) identify areas of research which students should pursue, and (4) provide the coach with the working knowledge necessary to function as effective critic with respect to the debate or speech topics being investigated by his/her students.(30)

Keefe gives the reason for this rule:

> By relieving the team of its responsibility to conduct research on the proposition, the coach deprives the debaters of an excellent opportunity for learning ways to gather data from a wide variety of sources. Furthermore, the coach leads the debaters into pawning off his or her work as theirs. Thus the coach both shortchanges them and teaches them dishonesty.(31)

In past codes (for example, the 1974 AFA code of ethics), this condemnation included the sale of debate handbooks.

While it may be the case that overcoaching can hinder the educational process, these guidelines may oversimplify the issue. The coaching strategy that produces the best educational results depends on many factors, including the experience and motivation of the debaters, the availability of library facilities, the time available for coaching, and so on. The primary responsibility of researching should be placed on the debaters, but determining the most educational coaching strategy is best left open to a coach.

There is an argument that an active coaching involvement may be educationally beneficial. In all other classes, the teacher plays an active role in presenting material to the students. Consider the effect of applying the code as it now reads to the conduct of any class in the university; such an instructor would be considered to be extremely ineffective and lazy. A normal teacher does extensive research in the subject matter of the class and relays this information to his/her students. Students learn from the

lectures of the teacher. While it may be argued that in debate we are attempting to train students in research and invention, and that requires a different teaching strategy. However, even coaches that do extensive research spend time training debaters how to research; the coaches' research merely supplements the research done by the debaters.

This does not imply that the coach should do a significant amount of research.(32) Obviously those types of research permitted in the code are necessary in order to coach effectively. If a coach comes across an article on the topic, it would be appropriate to give that article to a debater. Handbooks would seem to play a vital role in any high school program without access to a large library. In all these cases, the harm lies not in the use by debaters of evidence researched by others, but in the inappropriate use of this type of assistance, as is the case where the sole function of the coach becomes to research evidence, where the "overcoaching" represents an unhealthy view towards competition, or where a coach substitutes researching for coaching.

This section of the ethics code would be better worded if it emphasized that coaches should promote the skills of research and analysis, without proscribing specific behaviors. The debate forum is the best way to penalize excessive coaching. Teams that are handed evidence without coaching end up being unable to defend the evidence; they will usually be defeated by teams that are taught how to think and how to extend arguments.

There may be other reasons for such a restriction against "overcoaching". The norms that we establish for coaches could place undesirable pressures on coaches to do excessive research for debaters. Coaches are under heavy time pressures. They must travel frequently, find time to listen to practice debates, recruit, host tournaments, as well as prepare for classes, and (if they are lucky) keep up with developments in the field and perhaps publish. On top of all of this, some coaches would like a personal life that is not entirely devoted to forensics. Once coaches start to research for students, pressures may develop for them to do more research than they have time to do. Something has to give, and the choices made by a young coach may hurt the coach as a scholar and teacher in the long run. I could support a restriction on research by coaches, not necessarily on ethical grounds (although I do think the code should contain a statement opposed to some of the excesses discussed above), but because such a restriction may make life more pleasant for coaches - just as the moves to reduce the length of the debate season were justified because they made life more enjoyable for coaches.

## Recruiting

One issue not addressed by the current ethics code is the ethics of recruiting. There are a number of problems concerning recruiting that need to be addressed. What are the obligations of a coach recruiting a debater? Should any principles govern a coach who is discussing other coaches and

other schools? What should a coach do if there are negative features of the program (s)he is coaching?

The principle that should govern the coach in addressing these issues is that the interest of the student should be paramount. Misleading students can only have undesirable effects on the entire activity. At the same time, the coach should attempt to be honest in evaluating all programs, acting as an advisor to the student. Comparisonss to other programs should be made in as objective a way as possible, in order to minimize conflict. I firmly believe that there is no, one "best" debate program; which program is best for a debater depends upon that debater's interests, talents, and philosophy. Outlining the strengths and weaknesses of various programs may help match a debater with the best program (and school) for that individual. It is also important to encourage prospective debaters to seek out the broadest range of advice before they make their decision about what school to attend.

Treatment of debaters

The quality of a debater's educational experience depends, to a large extent, upon the coaching style of the debate coach. Despite this, the current codes provide little guidance for a prospective coach seeking to develop a philosophy of forensics. Two areas seem especially critical. First, any coach should provide all debaters with the opportunity to benefit from the activity. The coach is an educator first, and a competitive individual second. To single out single teams for extensive attention, only to leave other teams with no guidance is undesirable. While some differentiation between teams based on effort may be desirable, and a limited amount of differentiation may be required owing to a limited budget and varying ability, all teams should get coaching attention and ample travel opportunities.

It is also unfair to discriminate against debaters because of sex, race, religion, and other irrelevant factors. While we know of cases where these factors do play a role in team pairing and travels, nowhere in the ethics code is this type of behavior condemned. Nor is there a statement against the sexist behavior or sexual harassment of contestants, even though there is much evidence that this practice in common in academia, and anecdotal evidence that it happens at tournaments and high school workshops (especially with young staff members).(33) This is probably an area where sanctions are not feasible, but where some statement by the AFA may at least highlight the problem.

The coach also creates an atmosphere for the entire squad. While the nature of this atmosphere cannot be legislated, it may be wise to outline some general goals of the activity. The function of debate should be to promote the educational benefits of the intellectional exchange of ideas. The advice of Conant, Griswald and Dodds concerning sports in 1951 applies just as strongly to forensics today:

> A student takes part in college athletics because of the value of the experience for him, and he has the same obligation as other students to assume responsibility for solving his educational problems. Any other view seems to be a distortion of educational and moral values. The athletic program exists for the welfare of the student, for the contribution it can make to his healthy educational experience, not for the glorification of the individual or the prestige or profit of the college.(34)

The goal of forensics should not be the mere winning of trophies; the coach should emphasize the value of the activity as an educational experience and the coach should seek to minimize the undesirable effects of competition (recognizing that competition has both desirable and undesirable effects). As Zarefsky suggested:

> . . . given thee inherent unpredictability of debate decision-making, the pursuit of victory becomes frail as a long-range goal. Complain though the debater may about the decisions he does not like, he should realize that this is part of the game - one must pay his nickels and take his chances, finding satisfaction not in the fruits of victory but in the enjoyment of the process itself.(35)

Restrictions on Coaching and Academic Freedom

One criticism that is raised by many opponents of any restriction on the coaching, judging, or debating of individuals is that these restrictions violate academic freedom. Inevitably, and code of ethics will place restraints on the behavior of members of that profession. Academic freedom is a very important right. The Supreme Court suggested in Keyishian v. Board of Regents (385 U.S. 589, 603 ¼1967¶):

> Our Nation is deeply committed to safeguarding academic freedom, which is of transcendent value to all of us and not merely to the teachers concerned. That freedom is therefore a special concern of the First Amendment, which does not tolerate laws that cast a pall of orthodoxy over the classroom.

These principles were reaffirmed in Sweezy v. New Hampshire (354 U.S. 234, 250-251, 261-264 ¼1957¶):

> the essentiality of freedom in the community of American universities is almost self-evident. No one should underestimate the vital role in a democracy that is played by those who guide and train our youth. To impose any strait jacket upon the intellectual leaders in our colleges and universities would imperil the future of our Nation . . . . Teachers and students must always remain free to inquire, to study and to evaluate, to

gain new maturity and understanding; otherwise our civilization will stagnate and die.(36)

That these principles are important are beyond dispute. Numerous individuals have objected to a number of standards imposed upon teachers, including the mandate that topicality is a voting issue, the rule that the best definition be used, and the regulation that judges be required to provide judging statements at the National Debate Tournament as violating their academic freedom.(37)

There is an element of truth to these concerns. As Zarefsky indicated in his article on ethics,(38) some of the concerns expressed in ethics codes reflect honest disagreement about the best way to coach debaters. Imposing one philosophy on all coaches would restrict the freedom of some coaches to educate debaters in the way they think is best. A temporary majority of coaches could restrict coaching practices supported by a large minority of coaches.

There is a limit to the applicability of this argument. There is an evolving theory of academic freedom, based upon a reading of the Dartmouth College Case(39) that suggests that institutions (and by extention, professional organizations) may also have academic freedom interests. For example, it is clearly a violation of a teacher's academic freedom to fire that teacher because (s)he teaches atheistic views. Suppose, however, that someone wanted to create a devoutly religious college. The college, it could be argued, would have a right to create guidelines for professors in order to promote the type of academic institution desired by the creators of the college. Teachers would be hired with notice that, if they did not follow the principles of the college, they could be fired (even if their behavior would be legal at other institutions).

There are limits to institutional academic freedom, as is the case where an institution develops sexist or racist policies. Inevitably, however, individual academic freedom will conflict with institutional academic freedom.

An ethics code represents an attempt to develop an institutional standard for a field. As such, it will conflict with the freedom of individuals in the field. The weighing of the interests of the forensic's community institutional freedom against the individual coaches' academic freedom is a complex one. One important factor to examine is the opportunity for the expression of individual academic freedom outside the institution. We permit some colleges to restrict expression to promote institutional goals since teachers who disagree with those goals can always teach at other institutions. This makes sense only if there are ample opportunities for teachers to locate institutions that provide them with academic freedom. The nature of the restrictions should also be considered. Some minimum restrictions (requiring material taught to be germaine to the topic of the course, for example) can be imposed without violating legitimate claims to individual academic freedom. Other standards (institutional practices that promote segregation, for example) may be illegitimate. In any case, it is

important that the institutional restrictions on academic freedom be made clear before an individual becomes part of the institution.

Another way to look at the issue is to argue that the forensics community is merely setting the rules of the game. To argue that topicality is a voting issue, by this reasoning, is no more a violation of academic freedom than stipulating that the 100 yard dash will take place on a track 100 yards long.

A third way to look at the conflict between institutional and individual freedom is to view a code of ethics as a means for regulating the profession. The rules in the code simply express the values of the majority of the members of the field. The trouble with this is that the pressures to conform to the majority opinion may be so great that innovative and legitimate ideas are suppressed. This is especially true given the difficulty of developing alternative organizations to support the values of dissident members of the field.

One potential solution to this problem is to carve out sub-segments of the field. A certain code could contain the minimum requirements for the larger field and any sub-fields, while other organizations add additional requirements on for their members. There may be some regulations that may apply to only CEDA tournaments, for example.(40) This would permit those who supported the institutional academic freedom to debate in CEDA, while other coaches could coach both in CEDA if they like the rules or, if they are dissatisfied with the rules, enjoy the individual academic freedom of NDT. It may be wise for other tournaments to impose additional standards on participants, as long as advance notice is given. Many district NDT tournaments, for example, have regulations (such as trading evidence, revealing decisions, etc.) that excede the AFA and/or NDT regulations.

## STANDARDS FOR JUDGES

The integrity of the judge is important to the debate process. A dishonest judge undermines the fairness of the debate contest and can discourage debaters. It is important that any code of ethics include provisions governing the ethics of judges.

The main concern of a code of ethics is that the judge should avoid any hint of impropriety. Canon 2 of the ABA's Code of Judicial Conduct is "A Judge Should Avoid Impropriety and Appearance of Impropriety in All His Activities." The AFA code recognizes this by requesting that judges refrain from judging individuals where there may be a conflict of interest. I do think that this should be made as easy as possible for the judge, preferably by asking all judges at registration for conflicts; if a judge waits until pairings come out, it may be hard to find a suitable replacement. The categories in the code should probably be extended to include debaters that a coach is actively recruiting (and this should extend to college debaters judging debaters being recruited by their team).

These guidelines should include an exemption for those cases where both

teams agree to let a judge with an apparent conflict to hear the round. There may be some cases where both teams may agree to a violation of these guidelines, but these cases will be relatively rare. When this occurs, however, it should be relatively easy for both teams to "strike" such a judge.

Some tournaments place other restrictions on judges, such as restricting the judge's ability to flow or look at evidence after the round. Both of these guidelines seem out of place in an ethical code, and in addition, both guidelines are likely to be counterproductive, in that they may encourage overclaiming evidence and/or ignoring clash. These rules should probably be left out of the code; in addition, if such rules are viewed as being appropriate, it would seem that a limit on the time a judge could take in reaching a decision would be a better way to achieve these goals; the judge could look at a little evidence, but not much, so the teams would have an incentive to clarify issues. While this rule probably could not be easily enforced, if it were in a code some judges might follow it voluntarily.

## TOURNAMENT STANDARDS

One of the most hotly debated issues in forensics is the issue of random assignment of judges. The educational Practices Committee of AFA outlined some of the arguments for this position:

> Because a description of the behavioral characteristics which constitute judging competency do not exist, and
>
> Because even if such criteria did exist, there exists no instrument adequate to evaluate the degree to which a particular judge may possess certain qualities, and
>
> Because the subjective evaluation of individuals for purposes of development judging assignments is an affront to the educational institutions which employ and entitle them . . . , and
>
> Because the subjective evaluation of individuals for purposes of determining judging assignments is an affront to the students of persons subjected to such discrimination, and
>
> Because the subjective evaluation of individuals for purposes of determining judging assignments is an affront to those individuals, and
>
> Because no institutionalized, official program of certification of judging competency has been established by any responsible professional forensics organization, and
>
> Because there is not one shred of reliable data to demonstrate any educational value to subjective evaluation of judges, and

Because, in brief, subjective evaluation of judges is divisive, discriminatory, demeaning and utterly devoid of demonstrable educational value,

This Association stands resolved that tournament directors should assign judges "at random" and not according to the subjective evaluations of tournament officials or participants.(41)

While this issue has caused much discussion, in the end it probably has more symbolic importance than actual importance. I do believe that there are some general principles that can be used to evaluate judges; certainly we, as teachers and coaches, are evaluated all the time, and we evaluate debaters. We use experts to judge Olympic events and any athletic event, and these are selected based upon a vague notion of competence, why not apply the same standard to debate judges? While the standards employed may be subjective, there is some general agreement on ratings of judges. To be sure, there are some problems with the system; some tournaments assign judges because of "political" reasons, not based upon competency. Tournament discretion can be used to either promote fairness or to create unfairness. Randomness at least equalizes the risk. What makes the system ethical or unethical is not whether the judges are assigned randomly, but whether the director attempts to be fair in the placement of judges. In the end, the best way to ensure fairness is to attend "fair" tournaments, and shun "unfair" tournaments.

The issue of random judging is a complex one, and I am sympathetic with both sides. The issue does have a symbolic importance way beyond its real-world effects. At high school tournaments with random judging, many or the undesirable practices continue to take place. I do think that a limited number of "strikes" should be permitted (to eliminate hostile judges), as long as all teams have the same opportunity. In addition, I think that randomization need not be used in elimination rounds.

There have been other restrictions imposed on tournaments, ranging from restrictions on profits and the availability of alcohol to restrictions on pairing rounds and assigning judges. These rules do not bother me; the only question is whether these are rules of ethics. Some rules are best left to the marketplace. In other cases, violations are often doe to incompetence, not lack of ethics. These guidelines are useful in aiding tournament directors, but they are not ethical in nature. T

## THE NATURE OF A CODE OF ETHICS

The preceding sections have emphasized the wisdom of various ethical rules. A larger question involves the form of any code of ethics. This involves two issues: the content of the code; and the means for enforcing a code.

The Content of a Code of Ethics. The approach that we take to a code of ethics can be very important. Many of the current codes of ethics merely list rules for behavior for participants without explanation for the rules.

One problem with this is that the minimum standards of ethics included in the code may become maximum goals for participants. In addition, the lack of rationale for the rules may decrease the impact of the rules. The Joint Conference on (legal) Professional Responsibility noted:

> A true sense of professional responsibility must derive from an understanding of the reasons that lie back of specific restraints, such as those embodies in the Canons. The grounds for the lawyer's peculiar obligations are to be found in the nature of his calling. The lawyer who seeks a clear understanding of his duties will be led to reflect on the special services his profession renders to society and the services it might render if its full capacities were realized. When the lawyer fully understands the nature of his office, he will then discern what restraints are necessary to keep that office wholesome and effective.(42)

Since many of the ethical responsibilities of a participant/coach/judge may be difficult to codify, an understanding of the rationale behind the code might help an individual faced with an ambiguous decision to make the correct choice.

The framers of a code of ethics should also distinguish between two types of morality: the morality of duty and the morality of aspiration. Fuller explains the distinction between these two concepts:

> The morality of aspiration . . . is the morality of the Good Life, of excellence, of the fullest realization of human powers. . . . . Where the morality of aspiration starts at the top of human achievement, the morality of duty starts at the bottom. It lays down the basic rules without which an ordered society is impossible, or without which an ordered society directed toward certain specific goal must fail of its mark. . . . It does not condemn men for failing to embrace opportunities for the fullest realization of their powers. Instead, it condemns them for failing to respect the basic requirements of social living.(43)

A good ethics code does more than simply list the "thou shall not's"; it should provide inspiration for individuals to go beyond these basics. The American Bar Association notes:

> The Code is designed to be adopted by appropriate agencies both as an inspirational guide to the members of the profession and as a basis for disciplinary action when the conduct of a lawyer falls below the required minimum standards stated in the Disciplinary Rules.(44)

It would seem wise for a forensics code of ethics to include three items: (1) a rationale for the rules; (2) a statement of certain goals that debaters/coaches/judges should strive to achieve (but which, by their nature, cannot be mandated), and (3) a list of minimum standards that all in the

activity should meet, along with the penalties for breaking these rules.

Enforcing ethics. Once rules are established, it is important that they be enforced. As mentioned earlier, some of the "rules" in a code of ethics may merely be normative statements of vague goals, which cannot be enforced. There are a number of things that must be done to make the code viable.

First, the code must be publicized. A study by Keeshan in 1979 concluded that over half of those surveyed did not know about the content of the AFA code of ethics, and almost two thirds were unfamiliar with the process of enforcing the code and the sanctions mandated by the code.(45) She concluded:

> It is clear that something should be done to make sure that knowledge of the ethical standards reaches all relevant debaters or the value of having an ethical code is greatly diminished.(46)

We may want to make sure that all debaters and coaches know about the content of the code. It may be worthwhile to develop publications on specific unethical practices; UCLA, for example, has a good pamphlet that it distributes to all of its debaters providing specific guidelines to assist debaters in their research efforts.(47) Such publications could help inform debaters and coaches about their ethical responsibilities.

The sanctions that are imposed should be carefully considered. There are several possible sanctions, including: (1) tournament-specific sanctions (disqualification for elimination rounds; speaker points penalties, fines); (2) CEDA point penalties (elimination of points from a tournament, deduction of a set number of points from the final rankings); (3) NDT penalties (being declared ineligible; fines; win/ballot/point penalties); (4) individual round penaltiess (loss, speaker point penalties)(48); (5) public censure (letter to school administrators, publication of charges in JAFA and/or the AFA/CEDA newsletter. (6) peer pressure to conform to norms.

One final requirement for any ethics code is the guarantee of due process. While the extent of the due process provided should be based upon the sanction to be imposed (voting against a team for fabricating evidence may require a less formal procedure than publicly censuring a school, for example), certain requirements seem to be basic: prior notice that a behavior is unethical and notice of the potential punishment (this is achieved through the publication of the ethics code), notice of the changes against an individual, the opportunity to respond to the charges, and an impartial tribunal. The opportunity to appeal an adverse decision would also be desirable, if it is possible.

## CONCLUSION

The nature of the ethics of forensics is very complicated. This paper has attempted to outline some of the areas of controversy and some of the conflicts that should be addressed in any ethics code or any comprehensive

discussion of ethics. As with many topics being addressed at this conference, there is much disagreement about what should be included in a code of ethics, and the discussion can become very heated. I do think that, as a community of scholars, it is important that we attempt to be tolerant of other perspectives and not use a code of ethics to stifle legitimate dissent. While ethics is of vital concern to all, it is important that we do not use the issue of ethics to condemn behavior that is merely nontraditional. At the same time, we should not shy away from developing an ethics code that both develops minimum standards and creates ethical goals that can guide the forensics community in future years.

NOTES

(1)See, for example, the "Ethics Report as adopted by the Executive Council at their meeting on November 11, 1977," Rostrum, January, 1978, pp. 7-8.

(2)This position is further developed in David Zarefsky, "The Substance of Debate Ethics," Journal of the Illinois Speech & Theatre Association, XXXII (1978), 62-66.

(3)Ibid.

(4)Ibid, p. 62.

(5)Richard L. Johannesen, Ethics In Human Communication, second edition (Prospect Heights, Illinois: Waveland Press, Inc., 1983), p. 1.

(6)Robert H. Aronson and Donald T. Weckstein, Professional Responsibility (St. Paul: West Publishing Co., 1980), p. xix. See also Alan H. Goldman, The Moral Foundations of Professional Ethics (Totowa, New Jersey: Rowman and Littlefield, 1980.

(7)See, for example, Monroe H. Freedman, Lawyer's Ethics in an Adversary System (Indianapolis: Bobbs-Merrill, 1975) (Reviewed in Communication Quarterly, Spring, 1977, pp. 37-41); Thomas D. Morgan and Ronald D. Rotunda, Professional Responsibility: Problems and Materials (Mineola, New York: Foundation Press, 1976); Manard E. Pirsig, Professional Responsibility: Cases and Materials (St. Paul: West Publishing Co., 1970); and Kenney Hegland, "Moral Dilemmas in Teaching Trial Advocacy," Journal of Legal Education, 32 (1982), 69-86.

(8)Corpus Juris Secundum, however, argues: "What is generally called the 'ethics' of a profession is but the consensus of expert opinion as to the necessity of standards of professional conduct, and it has been said that there is no difference between personal and professional ethics. Thus, professional ethics is not a distinct system of morality but is the application of accepted standards of right and wrong to conduct of professional men in the business relations peculiar to their professional employment." "Ethics," Corpus Juris Secundum, vol. 31, p. 798.

(9)Zarefsky, pp. 65-66.

(10)Johannesen, p. 145. The American Bar Association Project on Standards for Criminal Justice suggests three functions of a code of ethics: to educate law students, lawyers, and judges; to permit rational criticism of lawyers; and to regulate the profession. See Standards Relating to the Prosecution Function and the Defense Function, March, 1971, pp. 8-10.

(11)Richard E. Crable, "Ethical Codes, Accountability, and Argumentation," Quarterly Journal of Speech, 64 (February, 1978), p. 27.

(12)Ibid., p. 31.

(13)Geoffrey C. Hazard, Jr. Ethics in the Practice of Law (New Haven: Yale University Press, 1978), p. 11.

(14)AFA Newsletter, June, 1982, p. 12.

(15)William S. Howell, The Empathic Communicator (Belmont, Cal.: Wadsworth, 1982), p. 188. Quoted in Johannesen, pp. 143-144.

(16)Kansas High School Activities Association, Speech and Drama Manual, 1976, p. 10.

(17)See, for example, Carolyn Keefe, "Debate Ethics and Morality," in Introduction to Debate, edited by Carolyn Keefe, Thomas B. Harte, and Laurence E. Norton (New York: Macmillan Publishing Co., Inc., 1982), pp. 268-285. See also Dana Hensley and Diana Prentice, Mastering Competitive Debate Caldwell, Idaho: Clark Publishing Co., 1982), pp. 139-141, and Diana B. Prentice, Directing the High School Forensics Program (Lawrence, Kansas: Continuing Education, 1980), pp. 83-86.

(18)Donald Klopf and Jamess McCroskey, "Ethical Practices in Debate," Journal of the American Forensic Association, I (January, 1964), 13-16. Some of these results can be found in Donald W. Klopf and James C. McCroskey, The Elements of Debate (New York: Arco, 1969), pp. 136-145, and Donald W. Klopf and Ronald E. Cambra, Academic Debate Practicing: Argumentative Theory (Denver: Morton Publishing Company, 1979), pp. 85-92.

(19)See, for example, "On Teaching Philosophy," Viewpoints in Teaching and Learning, edited by George S. Maccia, Vol. 56 (Fall, 1980).

(20)Bernard K. Duffy, "The Ethics of Argumentation in Intercollegiate Debate: A Conservative Appraisal," National Forensic Journal, 1 (Spring, 1983), 65-71.

(21)See, for example, the debate in Arthur Kruger, Counterpoint: Debates about Debate (Metuchen, N.J.: Scarecrow Press, Inc., 1968), pp. 176-207. This position has some problems. The fact that a poem, for example, appeals to emotions probably does not make it unethical, nor should we shy away from teaching our debaters to persuade others (within ethical limits). Even NDT debaters recognize the importance of persuasion - see, for example, the ballot of Dallas Perkins in the final round of the 1983 NDT.

(22)James H. McBath, ed. Forensics as Communication (Skokie: National Textbook Company, 1975), p. 25.

(23)Marjorie Keeshan, "A Survey of Current Perspectives on the Ethics of Evidence," paper presented to the annual Southern States Communication Association Convention, April 10, 1980, p. 2. This information can also be found in Marjorie Keeshan, "Debate Community Perceptions of the Ethicality of Evidence Use," unpublished M.A. thesis, University of Kansas, 1979, p. 12.

(24)Don F. Faules, Richard D. Rieke and Jack Rhodes do note that in open discussion sometimes inaccurate statements are inevitable (see Directing Forensics (Denver: Morton Publishing Co., 1978), p. 63), but they conclude that in debate fabricating evidence should be penalized.

(25)See James Edward Sayer, "The Ethics of Evidence," Debate Issues, October, 1978, pp. 2-3; Dale Hample and Judy Hample, "Evidence Credibility," Debate Issues, October, 1978, pp. 4-5; and James Edward Sayer, "A Rejoinder to 'Evidence Credibility', Debate Issues, October, 1978, pp. 5-6.

(26)This position is developed in Walter Ulrich, "The Use and Misuse of Evidence in Debate," Debate Issues, January, 1983, pp. 10-16.

(27)See Keefe, pp. 279-281.

(28)See, for example, Walter Ulrich, "The Strategic Limitations of the Spread," Debate Issues, January, 1984, pp. 3-11. (29)Douglas Ehninger and Wayne Brockriede note this "evil" was recognized as early as 1896. (Decision by Debate (New York: Dodd, Mead & Company, 1967), p. 309.

(30)AFA Newsletter, June, 1982, p. 13.

(31)Keefe, p. 277.

(32)Ironically, unlike earlier codes, the current AFA code does not suggest that undercoaching is unethical.

(33)See Billie Wright Dzeich and Linda Weiner, The Lecherous Professor: Sexual Harassment on Campus (Boston: Beacon Press, 1984). See also Sheryl A. Friedley and Marjorie Keeshan Nadler, "Perceived Gender Differences in Forensics Participation Leadership," paper presented at the November, 1983 Speech Communication Association Convention.

(34)New York Times, October 29, 1951, p. 17. Quoted in John F. Rooney, Jr. "Intercollegiate Athletic Recruiting," National Forum, Winter, 1982, p. 35.

(35)David Zarefsky, "Reflections on Debate Evaluation," Issues, II (December, 1968), p. 3.

(36)These cases are cited in William Van Alstyne, "The Specific Theory of Academic Freedom and the General Issue of Civil Liberty," in The Concept of Academic Freedom, Edmund L. Pincoffs, ed. (Austin: University of Texas Press, 1972), pp. 65-66. See also Craig Kaplan and Ellen Schrecker, Regulating the Intellectuals (New York: Praeger, 1983).

(37)Both Chester Gibson (West Georgia College) and A. C. "Tuna" Snider (Vermont) have objected to some of these standards in their judging philosophies at past NDT tournaments.

(38)Zarefsky, "The Substance of Debate Ethics."

(39)Dartmouth College v. Woodward, 4 U.S. 518 (1819).

(40)Randomization of judge assignment and restrictions on researching by evidence are two clear examples.

(41)Proposed resolution by the Educational Practices Committee, AFA, (1977?)

(42)Quoted in Aronson and Wecksteiin, p. 2.

(43)Lon L. Fuller, The Morality of Law, Revised Edition (New Haven: Yale University Press, 1969), pp. 5-6.

(44)"ABA Code of Professional Responsibility," in Freedman, p. 136.

(45)Keeshan, "Debate Community Perceptions," p. 28.

(46)Ibid., p. 37.

(47)UCLA Debate Union, "Philosophy of Evidence," n.d.

(48)Ethical questions should not be debatable; there needs to be prior notice of the ethical obligations of debaters, and to permit this issue to be debated could increase undesirable friction in the debate community. In addition, a part of the justification of the code is that it takes this type of a choice away from the individual judge to reduce pressure on the judge.